

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PASS & SEYMOUR, INC.,

Plaintiff,

-v-

5:07-CV-0272

HUBBELL INCORPORATED,

Defendant.

APPEARANCES:

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Hon. Norman A. Mordue, Chief U.S. District Judge

ORDER

There has been no objection to the excellent Report and Recommendation (Dkt. No. 35) prepared by United States Magistrate Judge David E. Peebles.¹ Upon review, this Court adopts in

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The Court notes that, subsequent to Magistrate Judge Peebles' submission of the Report and Recommendation, the United States Patent and Trademark Office issued a decision (Dkt. No. 37) granting the request for reexamination of the '110 patent, on the ground that consideration of the "Heimann" patent raises a substantial new question of patentability.

full the discussion and recommendations regarding the motions for a preliminary injunction (Dkt. No. 6) and a stay (Dkt. No. 24). It is therefore

ORDERED that the Report and Recommendation of United States Magistrate Judge David E. Peebles (Dkt. No. 35) is accepted and adopted; and it is further

ORDERED that plaintiff's motion for preliminary injunction (Dkt. No. 6) is denied; and it is further

ORDERED that defendant's cross motion (Dkt. No. 24) for a stay of litigation pending the outcome of reexamination proceedings by the United States Patent and Trademark Office is granted; and it is further

ORDERED that counsel is directed to notify the Court when the United States Patent and Trademark Office has completed the reexamination proceedings.

IT IS SO ORDERED.

July 23, 2007
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge